



ARKANSAS JUDICIARY

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Rule 63. Disability Of A Judge.

If for any reason, including resignation or removal from office, a judge before whom an action has been tried is unable to perform the duties to be performed by the court under these rules after a verdict is returned or findings of fact and conclusions of law are announced or filed, then any other judge regularly sitting in or assigned to the court in which the action was tried may perform those duties; but, if such judge is satisfied that he cannot perform those duties because he did not preside at the trial or for any other reason, he may, in his discretion, grant a new trial.

Reporter's Notes to Rule 63: - 1. Rule 63 is substantially identical to FRCP 63. The applicability of this rule is limited to those situations where a trial judge, for any reason, becomes unable to perform his duties under these rules during the period after a decision or verdict has been given and before the appellate court obtains jurisdiction. Although this rule gives the succeeding judge the authority to grant a new trial if he cannot satisfactorily perform the duties required of him, the decisions previously made by the former judge and the jury are presumed to be correct and the burden is on the moving party to show to the contrary. *Miller v. Penn R. Co.*, 161 F. Supp. 633 (D.C., 1958).

2. Because of its limited applicability, FRCP 63 has caused little or no controversy since its adoption and it has never been amended. Accordingly, it is not believed that Rule 63 will have any significant impact upon Arkansas practice and procedure.

Associated Court Rules:

Rules of Civil Procedure

Group Title:

VII. Judgment

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